

WORKERS' COMPENSATION INDUSTRIAL COUNCIL

Minutes of the meeting of the
Workers' Compensation Industrial Council
Held on Thursday, September 22, 2011.
Beginning at 1:06 p.m.

WV OFFICE OF THE INSURANCE COMMISSIONER
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Charleston, West Virginia

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P R O C E E D I N G S

CHAIRMAN DEAN: We'll call the Industrial Council meeting to order. Let the minutes reflect Mr. Dissen, Mr. Hartsog, Mr. Marshall, myself Bill Dean is present today. The minutes of the previous meeting was sent out. Has everybody had a chance to look at them? Is there a motion to approve?

MR. DISSEN: So move.

MR. HARTSOG: Second.

CHAIRMAN DEAN: Mr. Dissen makes the motion, Mr. Hartsog seconds it. Any questions on the motion? All in favor, aye?

(Ayes responded.)

CHAIRMAN DEAN: All opposed?

(No response.)

CHAIRMAN DEAN: Ayes have it. Office of Judges report. Judge Roush.

JUDGE ROUSH: Good afternoon. It's a pleasure to see everyone here today. I'm here to give the report of the Office of Judges, which I forwarded to you in an e-mail earlier today.

First I'll go over the statistical data with regard to the protests acknowledged. We acknowledged 403 protests in the month of August, for a total of 3,472 in the year, 2011-calendar year.

1 Underneath the first Statistical Analysis
2 Number A, you'll see the breakdown of how that works
3 with regard to the old fund, private carrier, and
4 self-insured employers, and you'll see that we continue
5 to see an increase coming from orders, protested orders
6 from the private carriers.

7 If you move to Page 3 with regard to our
8 projected numbers per calendar year 2011, you'll see
9 that we bumped our number up a little bit slightly to we
10 believe we'll have around 5,200 protests this year. We
11 think, based upon the numbers we've seen, of course,
12 over the last few years, that we're finally reaching a
13 plateau. We were in a steady decline for a number of
14 years, but we're levelling out now around 5,000 protests
15 per year.

16 And if you'll turn to Page 5, how does this
17 year compare to last year. With regard to our pending
18 case load in August we had 3,670 protests pending.
19 You'll see 12 months prior to that we had 3,645. So the
20 number is substantially the same.

21 Moving on to Page 6 with regard to final
22 decision timeliness. We continue to work on improving
23 these numbers with regard to getting these decisions out
24 between 60 -- or under 60 days. You can see that we're
25 still making improvements. And I'll have to say that

1 Judge Rusher and I were just talking that definitely we
2 think we're going to see some impact with regard to
3 these numbers due to the number of retirements that we
4 had. And just yesterday another judge announced his
5 impending retirement coming up in December, so that will
6 be the fifth judge that we've lost this year due to
7 retirement. So hopefully we can get a relatively quick
8 turnaround with hiring some new judges, but I'll have to
9 say, from my experience so far, it's a relatively slow,
10 slow process. We did do some interviews, we're in the
11 process of hiring at least one judge at the time, but
12 we're still pending approval for at least two more ALJ
13 positions at this time. So, once that winds its way
14 through this agency and this Department of Tax and
15 Revenue, as well as the Division of Personnel, it takes
16 a considerable amount of time. But hopefully we can
17 find some replacements very soon. We're definitely in
18 need of them.

19 MR. DISSEN: Judge, what takes it so long to
20 do the hiring?

21 JUDGE ROUSH: What takes it so long to do
22 the hiring? I think first and foremost, hiring in
23 government is completely different than hiring in the
24 private sector. You know, all of you folks working out
25 there in regular business know that you can hire someone

1 as soon as you find the qualified candidate. But with
2 regard to classified jobs, there are a lot of rules and,
3 of course, we have an actual agency that oversees
4 hiring. And I'll just tell you, for example, with
5 regard to selecting a judge, I was told by the folks
6 we've been working with downstairs in administrative
7 services here that there are twelve levels of approval
8 that you have to go through before you can even present
9 an offer to a potential candidate.

10 So that's just one example of a lot of the
11 red tape you have to go through. But there are quite a
12 number of rules in government that we have to follow.

13 MR. DISSEN: I guess my question would be
14 why? Doesn't anybody ask the question why?

15 JUDGE ROUSH: I think that everybody in this
16 room has asked why.

17 MR. KENNY: We ask it all the time.

18 JUDGE ROUSH: We've asked why definitely,
19 and you know, from my understanding they work within the
20 constraints that they're given, and I think they are
21 trying to make improvements in their shop, as well, the
22 Division of Personnel I'm referencing. But at the same
23 time, you know, those laws are there to protect you as a
24 citizen and as a tax payer, and protect our employees as
25 well.

1 So I can't defend them or speak for them,
2 but I just do know that it does take a considerable
3 amount of time.

4 MR. KENNY: It's the civil service statute
5 and it's got, what legislature I guess, was various
6 checks and balances to make sure it's a fair system.
7 You have requirements to post every job and for a
8 certain period of time, and that time has to flow before
9 you can go to the next step, and an awful lot of hoops
10 you have to go through. But it's in the State Code.

11 MR. DISSEN: Is there some secretary that
12 looks over this function?

13 JUDGE ROUSH: Yes. Sarah Walker, is that
14 her name?

15 MR. KENNY: Well, cabinet secretary would be
16 Ferguson, Secretary Ferguson. Sarah Walker is head of
17 the Department of Personnel, and she's an attorney from
18 Jackson Kelly? One of the firms. But it's pretty much
19 State Code Rules that have been --

20 MR. DISSEN: Well, I understand the
21 organizations have posting procedures also. It just
22 seems -- to protect everybody, but it seems like it's
23 also protecting functional areas and it seems to me that
24 we have an organization here that needs some help.
25 You're losing five judges and you have to get them

1 filled. Otherwise your numbers are all going to be
2 changed. It seems we need some leadership somewhere to
3 get them off the dime.

4 MR. KENNY: There are ways, there are
5 various procedures you can temporarily fill a job
6 position, almost immediately. But it's a 90-day
7 temporary appointment, and jobs consistently don't lend
8 themselves to put somebody in for 90 days and get them
9 trained and in 90 days leave.

10 JUDGE ROUSH: I can assure you from our
11 perspective at the Office of Judges, we follow up with
12 the HR Department here, who facilitates moving things
13 along through the system, almost every day, and they're
14 extremely helpful. But unfortunately their hands are
15 tied, as well.

16 MR. DISSEN: I see where the clog is.

17 JUDGE ROUSH: So we do our best, but
18 hopefully, I'm hopeful that we will get someone in
19 relatively soon.

20 Okay. Moving on, what I wanted to point out
21 to you, too, we often have these particular charts that
22 are in yellow today in the back of this report. With
23 regard to the acknowledgement goal, I wanted to point
24 out with you our most litigated issues. The top three
25 litigated issues in our office continue to remain the

1 same year after year interestingly. The most litigated
2 issue being treatment. The second litigated issue being
3 permanent partial disability. And the third most
4 litigated issue being compensability. So -- and from
5 year to year, those historically remain the most
6 litigated issues.

7 Finally, if we can turn to the end, a couple
8 things I wanted to point out to you. With regard to
9 expedited hearings, on Page 15, the numbers for 2011,
10 this is a calendar-year number, are higher today at the
11 end of August with regard to this chart, than they were
12 for the entire year in 2010. So through August we've
13 done 113 expedited hearings, and through all of 2010
14 we've done 112. So we're seeing an increase in the
15 number of requests to expedite hearings.

16 And according to the statute, there are
17 three types of issues that can go through this process:
18 Treatment, temporary total disability, and
19 compensability. I'm not certain for the increase,
20 although I think you could argue that this is strategy
21 on the part of some claimants to get their issue
22 resolved quickly, but there are certain constraints to
23 the expedited process, including the amount of time that
24 each side gets to litigate the issue. So particularly,
25 it's not as easy to get your evidence and your medical

1 records in a shorter condensed timeframe than it is, say
2 the regular litigation tracks that we have for all the
3 other issues. So I just wanted to point that out for
4 what it is worth.

5 And then last week -- or last month, you
6 asked me a little bit about medical treatment and
7 whether there was any particular reason for the spike
8 that we've seen. It was suggested from an audience
9 member that I go back through and highlight for you how
10 the -- how the -- what the volumes look like over the
11 last few years. And I put together this chart for you.
12 This is what it looks like.

13 Between 2003 and 2011 -- Of course, 2003 is
14 when we had our first substantial amendments to the
15 statute that affected litigation. Shortly thereafter
16 litigation with regard to medical treatment spiked, with
17 2004 of having 4,821 protests in litigation. And then
18 it remained relatively constant. And then we've seen
19 just a steep decline for a period of four years. And
20 then, of course, a slight bump up in 2010. We do think
21 that we'll have more in 2011 than in 2010. We currently
22 have litigated 1,203 protests, with last years being
23 1,386. So I think -- I don't know that this chart is
24 reflective of that, but just from knowing the litigation
25 process in general, there's already the variance in the

1 litigation. And I don't know that there is a particular
2 reason for the limited spike, but I wanted to point out,
3 because it was suggested that I do, that it's actually
4 been on a decline for quite some time. Not nearly as
5 bad as it used to be.

6 I want to just remind everybody of our
7 workshops. I've got this flyer out front. We've got
8 two workshops; one in Morgantown on October 6th, and one
9 in Charleston on October 12th.

10 And then also to remind everyone again that
11 we are closing our Fairmont field office effective
12 November 1st. And for you practitioners out here, the
13 new hearings will commence in November at the Marion
14 County Courthouse. That's where we'll be holding them.

15 CHAIRMAN DEAN: Very good. Mr. Dissen, you
16 have any questions?

17 MR. DISSEN: No, sir.

18 CHAIRMAN DEAN: Mr. Hartsog?

19 MR. HARTSOG: No.

20 CHAIRMAN DEAN: Mr. Marshall?

21 MR. MARSHALL: No, Mr. Chairman.

22 CHAIRMAN DEAN: Thank you. And if you want
23 to work some overtime for free, we'll let you.

24 JUDGE ROUSH: Yeah, it looks like there will
25 be plenty of opportunity.

1 CHAIRMAN DEAN: Okay, we'll move on to state
2 of the Workers' Compensation market. Mr. Kokulak.

3 MR. KOKULAK: Good afternoon. I think we've
4 brought enough copies for everybody, we have 30 copies.
5 Let me just go ahead and introduce myself. I'm Dennis
6 Kokulak. I'm with NCCI. And NCCI is state relations
7 exec for West Virginia and several other states. And
8 what you're going to get today is a speed talking
9 version of a meeting that we conducted a couple weeks
10 ago. Actually it's a very shortened version. We, once
11 a year on all of our states we conduct what we call
12 state advisory forum, and we spend about two and a half
13 to three hours with local constituents talking about the
14 state of the Workers' Comp market in their state. And
15 what they especially like about it is that we compare
16 national results to what's happening in that particular
17 state.

18 So we had that meeting on September 7th here
19 in Charleston, and understanding that not all the
20 members of the council could make it, we decided just do
21 kind of a very shortened version of it here today. So
22 they told me to take about a half hour and kind of rip
23 you through this. This is, again, a very shortened
24 version of it. I tried to pick the slides and the
25 information that is probably most pertinent. One thing

1 that we like to do at that meeting too is every year we
2 spend a little bit of time talking about one of the
3 recerts studies. A couple years ago it might have been
4 the impact of driving accidents on the Work Comp system.
5 We've taken a look at the impact of the ever increasing
6 aging work force, where given this economy and people
7 losing equity in their homes, losing money out of their
8 401-K's, pensions, what not, people are staying in their
9 jobs a lot longer. So to the extent that you have an
10 older work force, what does that portend for the Work
11 Comp system. So we took a look at that and we share
12 that information.

13 This year we presented kind of an abridged
14 study, which is not in this package today due to time
15 constraints, but it has to do -- was pretty interesting
16 on the impact of obesity, the obesity crisis in this
17 country on the Workers' Comp system, and that is
18 profound. And if you'd like kind of a half hour
19 summation on that, I'd be happy to come back and do that
20 at a subsequent meeting. But the findings there are
21 just significant. Very, very troubling.

22 But we're not going to do that today. Today
23 we're just going to take you through the results and
24 kind of where this market is. And let me just take you
25 to the first slide. Again we're going to compare

1 national to what's happening in West Virginia. And so
2 I'm actually on Slide 3, Condition of the National
3 Workers' Comp Market, and this comes from our CEO's
4 address at our annual meeting in Orlando. We've seen
5 deterioration in the combined ratios. And for those of
6 you who don't dabble in this too much, combined ratio is
7 a measure that insurance companies use to determine
8 profitability. And think of it in its simplest terms as
9 for every dollar that comes in the door in premium, how
10 much goes out the door to pay claims or dividends or
11 lost adjustment expense.

12 And so you can see that to have an
13 underwriting profit, you would have to have a combined
14 ratio of less than one, okay. If the combined ratio is
15 one, you're matching every dollar that comes in the
16 door, sending a dollar out the door on those items that
17 I mentioned. So we'll take a look at that.

18 Decline in claims frequency stopped in 2010.
19 That has been really the saving grace for this line of
20 insurance over the last 20 years, and we'll show you a
21 chart on that. Basically claim frequency has dropped
22 significantly and successfully and successively over the
23 last 20 years, and that stopped last year where there
24 was a slight uptick, and there was a slight uptick here
25 in West Virginia. So we'll show you a little bit of

1 information about that.

2 And over the last few years we have at NCCI
3 in the 37 states that we made rate filings in or loss
4 cost filings, we've submitted to insurance regulators
5 far more decreases than we have increases, and it looks
6 like that cycle is starting to turn also.

7 And then the other thing that concerns
8 insurance companies is the impact of all this health
9 care reform and what that portends for the Work Comp
10 industry. A lot of the discussion in D.C. about having
11 a little bit more oversight from a federal perspective
12 on the Work Comp system. And if you're aware that what
13 you have in Workers' Comp is really fifty different
14 systems in all the various states, without any kind of
15 federal oversight, they're all kind of managed on a
16 state level. And there's some concern that -- well, the
17 concern that what would federal involvement or federal
18 regulation mean to the Work Comp industry. So those are
19 stories yet to be told, I guess.

20 Okay. Go to Page 4, West Virginia: Outlook
21 & Observations. And we shared this with the group in
22 early September.

23 First of all, I can tell you that we're a
24 little over three years now into the start of the
25 competitive market here, and things are going fairly

1 well. And I'll just share this information with you.
2 We've got over 200 insurance companies that have license
3 to write Workers' Comp in this state, and I think about
4 180 or so have written at least one policy. And when
5 you take a look at the market overall, we have
6 85 percent of the market being written by five insurance
7 companies. Brickstreet still far and away the largest
8 at 61 percent of the market. And then you have Liberty
9 Mutual, Travelers, AIG and Zurich writing another
10 24 percent. So among those five writers, that's
11 85 percent of your market here in West Virginia.

12 We've seen a continued decline in West
13 Virginia premiums. We've got a chart to show you that.
14 Some improvement in the combined ratio here, and that's
15 contributed to the fact that we've made, now, we've made
16 six loss cost filings in West Virginia since the first
17 one in 2006, and each has been for a decrease. How long
18 that train is going to run, we don't know, but there's
19 been six consecutive decreases to this point.

20 Coal mine loss cost also decreased.
21 Obviously coal mine is a significant portion of the Work
22 Comp premium here in West Virginia. Surface coal mine
23 rate -- or loss cost dropped 11 percent, and that will
24 be effective November 1. And the underground coal loss
25 cost dropped this year 9 and a half percent, again

1 effective November 1.

2 Residual market is a relatively new concept
3 here in the state. It is small, but growing. That's
4 the portion of the market that NCCI helps to administer
5 where now you have employers in a competitive market who
6 for one reason or another are not attractive to a
7 carrier that's writing business voluntarily, they have
8 to have the coverage, so we manage a system where they
9 can apply and they get assigned to a carrier and get
10 their Workers' Comp coverage. So that number is growing
11 and we'll share some numbers with you on that.

12 All right. Page 5 is the national look at
13 the decline in Workers' Comp premium, and it's five
14 straight years now the premium has declined. The
15 decline slowed a little bit in its most recent year, but
16 from a high of about \$48,000,000,000 in 2005, the Worker
17 Comp market now countrywide is down to about
18 \$34,000,000,000.

19 Okay. Go to Page 6, and again I'm going to
20 try to go through these fairly quickly. If you have a
21 question, just stop me.

22 All right. Slide 6 again is the picture of
23 the Workers' Comp premium, and you can see the decline
24 there just in the last few years. When we talk about a
25 decline in Workers' Comp premium across the country, and

1 here in West Virginia, it's based on two reasons. Okay.
2 First is the economy. Okay. Workers' Comp is a payroll
3 driven line of insurance, so to the extent that there
4 are problems with the economy, with business closures,
5 lay offs, high unemployment, that's going to certainly
6 impact the Workers' Comp premium in a given state and
7 countrywide.

8 And the other reason for the decline
9 nationally and here in West Virginia is the one I
10 mentioned a couple of minutes ago, and that's the fact
11 that at NCCI we have filed so many rate decreases over
12 the last several years, and again it looks like that
13 part of the cycle might be changing, but we will see.

14 But anyway, again, West Virginia Work Comp
15 premium down fairly significantly, but again you're in
16 kind of lockstep with what's happening nationally.

17 Take a look at Slide 7. Again these are the
18 combined ratios. Again, this is national on Slide 7.
19 If you take a look at 2006, actually an underwriting
20 profit those years because the combined ratio was less
21 than one. But you can see where it is in the most
22 recent year, by any measure, \$1.14 or \$1.15 going out
23 the door for every dollar that comes in. And the only
24 thing that's not represented in the combined ratio
25 picture is the investment income that insurance

1 companies get on their premium dollars, and obviously
2 nobody is getting 14, 15 percent these days.

3 So again, those are overall numbers.
4 Individual carriers are going to have individual and
5 varying degrees of success. But when you look at the
6 market as a whole, those are the overall numbers.

7 Go to the next page, Page 8, and you can see
8 a little bit better picture here in West Virginia with a
9 combined ratio in the most recent accident year was .95,
10 so an underwriting profit here in the state. And again
11 another reason why we, perhaps, have been filing rate
12 decreases and filed a rate decrease this most recent
13 year.

14 If you look at Page 9, it gives you an array
15 of the most recent combined ratio in all of the NCCI
16 states from the last filing cycle. So we do not have
17 West Virginia's .95 here. Its last year is 1.08. And
18 you can see that from a high of 1.26 in Rhode Island to
19 a low of 83 in Texas and Alaska. West Virginia last
20 year was pretty much middle of the road. But again, now
21 at .95 would be more in line with somewhere around what
22 Kansas and New Mexico are doing. So again, excellent
23 results and certainly West Virginia probably in the top
24 ten of these states countrywide as far as combined ratio
25 results. So again, good news for West Virginia in that

1 regard.

2 I'm going to move to Slide 11 where we kind
3 of take you through the most recent filing activity in
4 West Virginia. This is as respects the loss cost
5 filings that we've made for the voluntary market, that's
6 in blue. And then the filings that we made for the
7 assigned risk market in green. And as you can see, last
8 three years, and certainly as I said six years, but this
9 gives you a three-year look, pretty significant
10 decreases in the loss cost of the voluntary market. And
11 even in the residual market, which is surprising, going
12 into effect this year, almost a 12-percent decrease for
13 the assigned risk market.

14 Take a look at Page 12, and it shortcuts off
15 back at July, 2006, it cuts off because that was the
16 date of the first NCCI loss cost filing, which was for a
17 change of a -13.9 percent. So if you were to take a
18 look at each of our successive five filings after that,
19 loss costs have declined in West Virginia 35.4 percent
20 since July of 2006. So certainly good news there for
21 West Virginia employers over the last six years.

22 Again, I'm just going to just keep ripping
23 through this at a slower rate of speed, which I hope is
24 now acceptable, unless someone were to stop me with any
25 questions.

1 Take a look at Page 13. And when we talk
2 about the cycles in Workers' Comp, this probably is a
3 excellent illustration. If you go back to the early
4 90s, again we got about a twenty or so year look here.
5 We go back to the early 90s. A lot of states had system
6 issues, very significant problems in the number of
7 states that we were filing some pretty significant rate
8 decreases back in those days, and states undertook
9 reform efforts. Those reform efforts, you can see,
10 started to kick in and we went into a period in the late
11 90s where the results got much better and we filed
12 decreases across the country that dropped rates about
13 28 percent. To change, again, with the early 2000s,
14 where there was a period of four years where they went
15 back up 17 percent. So again, this is the ebb and flow
16 of this market. And then we went into this period, and
17 again we talked about it in West Virginia being the last
18 six years of filing rate decreases, you can see again
19 even on a national level that was pretty much the trend.

20 And so now, 2011, we see this slight
21 projected uptick, again we will not know probably till
22 next year whether this is a one-year aberration, whether
23 the increase in claim frequency this most recent year is
24 a one-year aberration, or if it's the start of a new
25 trend. But again, a pretty good run there over the last

1 six, seven years as far as rates and loss costs
2 declining pretty much across the country in Workers'
3 Comp.

4 Take a look at 14. This is just a quick
5 snapshot. Go back to 2008/2009, NCCI made loss cost or
6 rate filings in 36 states. And what this tells you is
7 that 30 of the 36, so well over 80 percent, 30 of the 36
8 we filed decreases. And still a pretty good result,
9 again putting your employer hat on, it's a good result,
10 even in 2009/2010. That season, still 28 of the 36
11 being decreases. And you can see it's a little bit of a
12 slippage in this most recent year with -- we're now up
13 to 37 states where we made filings, we add Texas now,
14 and 21 states where the filings were decreases, 16 where
15 there were increases. And it looks like that is just
16 totally flipped now, where we've made 15 filings to this
17 point, and 11 of them are for proposed increases. Four
18 of them are for decreases, and West Virginia obviously
19 is one of those four. Okay. So the tide may be
20 turning, the trend may be turning.

21 This next slide, No. 15, is just kind of a
22 quick snapshot of each of the states. When we conduct
23 this meeting that we conduct in each of our states,
24 people like to get a quick look at "well, yeah, you're
25 telling us about our numbers, but what's going on in

1 some of the other states," and they like to look at some
2 of the regional states. You can see West Virginia way
3 at the end on the left side at a -8.1, the most recent
4 change. Oddly enough, a lot of people like to compare
5 what's going on in West Virginia to some of your
6 surrounding states. And Virginia is out of the box
7 right now. Of those 11 states where we've made an
8 increase filing, it's the highest right now at
9 10.5 percent. Virginia is another state that I handle
10 and Virginia has a little bit of a different system with
11 a little different -- of a protracted regulatory review
12 process. We'll have a hearing in Richmond on this 10.5
13 increase at the end of October. But anyway, that gives
14 you a quick snapshot of what's going on in some of the
15 other states.

16 Okay, take a look at 16, and this is a look
17 at the average loss cost in West Virginia, not for coal,
18 just the rest of the industrial companies. And we
19 wanted to take that snapshot and compare it to the seven
20 regional states that we have kind of surrounding you.
21 And you can see, you're probably the middle of the road.
22 There's a little bit lower cost than just about every
23 state except Virginia. I can tell you that the national
24 average loss cost is 1.50 right now, so you're below the
25 national number. And again, we'll see where that goes

1 in future years.

2 Okay. The claim frequency, so I'll take you
3 right to Slide 18, and you can see that between 2009 and
4 2010 a slight uptick, then kind of matching the national
5 change. Slight uptick in claim frequency this past year
6 in West Virginia.

7 Let's take a look at 19, which is the
8 national chart. And again, we don't have a rating
9 organization, all that much history here in West
10 Virginia, but this national chart is a 20-year look at
11 the decline in claim frequency year over year. And you
12 can see that it's gone down 56.4 percent over the last
13 20 years, until 2010, where it seems to have taken a
14 slight uptick of 3 percent. Again, is that a one year
15 anomaly? We don't know at this point. But it's
16 something obviously we're keeping an eye on.

17 Go to Slide 20. Take a look at claim
18 frequency in West Virginia as it compares to claim
19 frequency in the other seven regional states. We don't
20 know why this is that it's a little bit higher than it
21 is in some of the other states, surrounding states, but
22 our thought is it comes perhaps out of -- out of the
23 fact that the other states have a different
24 administrative process, and I think when we came into
25 the state and learned about what was happening in the

1 state here, it was kind of a cultural mindset with
2 respect to Workers' Comp that maybe hasn't quite totally
3 gone away as yet, where Workers' Comp was looked at in
4 light of being another type of an entitlement program.
5 I know there were issues early 2000s, that we were told
6 anyway, again this is before we came on the scene, where
7 there would be plant closings or issues related to
8 layoffs, and the idea would be "well, let's file for
9 Workers' Comp," and that was kind of the mindset. It's
10 almost like "well, that's what we did here." I don't
11 know if some of that cultural mindset still exists, but
12 your claim frequency is higher here than it is in the
13 surrounding states.

14 Now, the other side of this, and we'll see,
15 is your costs are lower. Okay. So it hasn't hurt you
16 all that much. And again, even though it's at that
17 number it's at right now, it had been declining the last
18 few years and took a little bit of an uptick in this
19 most recent year. So claim frequency obviously is
20 something we keep an eye on here in West Virginia.

21 Okay. Medical severity. We always take a
22 look at the two payout pieces of the Workers' Comp
23 dollar. And if you take a look at the countrywide pie
24 chart there, a radical change from 20 years ago when the
25 indemnity portion of the payout was most of the dollar

1 payout, and now that's really completely turned around
2 where 59 percent of the payout is medical to 41 percent
3 for indemnity. In West Virginia it hasn't swung quite
4 that much yet, still virtually an even split between
5 medical and indemnity, and we'll see where that takes us
6 over the next few years.

7 Take a look at 23. Actually some good news
8 there. A slight downturn in the medical severity over
9 the last year. So again, frequency a little bit higher
10 in this state than perhaps some of the surrounding
11 states and what the countrywide averages would be, but
12 medical severity is down in this state, which is
13 obviously good news.

14 Take a look at 24 just as kind of a quick
15 comparison. Again keeping in mind that on 23, that 15
16 is \$15,000 average medical severity. Take a look at 24,
17 where in the most recent year medical severity went up
18 2 percent. And as you can see if you read the blue
19 graph there, at \$27.7 thousand dollars for medical
20 claims. So obviously your costs here are significantly
21 lower than they are countrywide.

22 You can see that also on Slide 25. 28,000
23 average medical claim severity to 15,000 here in West
24 Virginia.

25 And take a look at 26. West Virginia, I

1 guess the actuaries did some rounding here, so they've
2 got it at 16,000. And you can see how well you compare
3 to other states in the region. So again a high claim
4 frequency state, but a relatively low severity state.

5 Okay. Cover indemnity severity. Slide 28,
6 and this is the same set of slides that we just showed
7 you for medical and indemnity severity, again taking a
8 little bit of a dip this most recent year. Average
9 indemnity severity claim, \$13,700 here in West Virginia.

10 Take a look at 29, which is the national
11 chart. And if you take a look at the 2010 year, also a
12 decline nationally, but still at 22,300 indemnity claim
13 costs. Also, as with medical, significantly higher on a
14 national level than what you see here in West Virginia.

15 And again, same thing, a little bit simpler
16 chart on Slide 30, to take a look at that one. Again
17 just a quick comparison of the countrywide average
18 indemnity claim severity to the West Virginia.

19 Again take a look at 31. Again claim
20 severity, indemnity, much lower, or somewhat lower than
21 the other states in the region. So again, just
22 reiterate that point, your frequency here is higher than
23 it is in your surrounding states, but your severity both
24 on the indemnity and medical side of things is lower,
25 and that has really been a saving grace for this market.

1 Okay. Let's go to 33. One of the things
2 that we do at NCCI is we try to keep track of what's
3 going on with the economy. Again, it's a payroll driven
4 line of insurance. We want to do more when we make our
5 rate filings and we want -- or when we do our
6 legislative analysis. We want to do more than just look
7 at the historical data we have which gives us kind of
8 that look in the rear view mirror perspective. We also
9 like to keep track of what's potentially going to be
10 happening with the economy, so that we can gauge now
11 what may be happening down the road.

12 And so what we've got here is some
13 information -- if you take a look at Slide 33, we get a
14 lot of this information from the U.S. Bureau of Labor
15 statistics. And what this -- again, it's a very busy
16 chart, but let me just show you, this shows the last
17 three recessions in the United States. And it shows you
18 that the job losses in West Virginia haven't been as
19 severe as the rest of the country. So if you take a
20 look at the most recent recession in 2007, which
21 economists tell us ended in June of 2009, that
22 recession, most recent one, you see in the blue graph
23 there, you see the range of states with respect to job
24 losses. You actually saw some states that increased
25 slightly, and that might not be a state, but you see it

1 to the right side of the zero. That's probably D.C.,
2 where probably saw some government jobs on the rise.
3 But when you look at the far end of the left there as
4 far as the range of states where it looks like a
5 -11 percent, that's probably a Michigan with the auto
6 industry that went under. But if you take a look at the
7 U.S. average, that would be the purple, at about
8 5 percent and change. You can see that West Virginia,
9 although things have been rough, certainly less than the
10 countrywide average, with West Virginia in the gold
11 there.

12 Okay. Take a look at Slide 34. This is a
13 look at jobs in various employment sectors in West
14 Virginia since the onset of the recovery. Again, this
15 is since June of 2009. And as we've seen in a number of
16 states, the construction market has not come back or
17 financial activities. That's pretty much in lockstep
18 with what we're seeing in other states. I can tell you
19 in Arizona, another state that I've worked in, the
20 construction industry has virtually ground to a halt and
21 they're down about 20 percent, and it doesn't look like
22 it's going to be coming back any time soon.

23 So, probably not surprising in West
24 Virginia, you see mining with a little bit of an uptick
25 -- well, actually more than a little bit of an uptick,

1 at 9.9 percent. But again, this gives us some
2 information to kind of be aware and to keep this type of
3 information on our radar screen so that we're not
4 surprised by payroll data as it starts to come in in
5 subsequent years as we go about the task of developing
6 our rate filing proposals.

7 Take a look at the next slide, which is
8 employment in West Virginia since the start of the
9 recession, which goes back to December of 2007. And
10 again, mining has faired very well, as has education and
11 health services. But you can see construction down
12 considerably since the start of the recession, although
13 it's come back a little bit since the end of the
14 recession as you saw from the prior chart.

15 MR. DISSEN: Is that natural resources
16 block, does that also include the natural gas industry?

17 MR. KOKULAK: Yes. Okay, coal mining.
18 Let's go to Slide 37. And again, since coal is such a
19 significant part of the economy here, a significant part
20 of the payroll base here for Workers' Comp, it's
21 obviously something that we keep a pretty significant
22 eye on.

23 What we did here, we took some information
24 from again U.S. Bureau of Labor Statistics with respect
25 to coal employment, both nationally and in West

1 Virginia. The gray bars that you see, the vertical gray
2 bars are periods of the most recent six recessions. And
3 so you can see that in the most recent one, actually
4 countrywide and in West Virginia at the start of the
5 recession midway through the recession, there was an
6 uptick in coal employment that seems to have leveled off
7 a little bit nationally. And again, as we've seen since
8 the start of the recession from prior charts, we've
9 showed you it's probably still on the upswing just
10 slightly in West Virginia. Again, just information that
11 we like to avail ourselves of so that it helps us to
12 explain some of these trend lines that we're seeing as
13 payroll gets, and losses get reported to us.

14 Take a look at Slide 38, "Coal has a
15 disproportionate impact on Workers' Comp in West
16 Virginia." I think I mentioned that already. When you
17 take a look at it from the standpoint of a percentage of
18 payroll at 4 percent, how does that compare to
19 percentage of indemnity losses at 19.4 percent. And
20 that probably doesn't surprise you, because it's such a
21 hazardous occupation. But again, just a quick snapshot
22 there, a look at payroll, coal payroll in West Virginia
23 compared to how that plays out with respect to medical
24 and indemnity losses as they develop. Again, 4 percent
25 of the payroll, but about 10 percent of the claims.

1 All right. The residual market in West
2 Virginia. I just want to share some information with
3 you there. Again this was a concept that you didn't
4 have in West Virginia until January of 2009. Every
5 employer found a home. It was not an issue at all,
6 again as we said earlier, with the voluntary market
7 where carriers can choose what employers they want to
8 write. You will have some employers who do not get an
9 offer of voluntary coverage.

10 Generally there's three reasons why an
11 employer will not find voluntary market coverage. The
12 first -- and you can see it pretty significantly here --
13 first is their premium size. Most small employers are
14 not attractive to voluntary writers simply because of
15 the small premium size.

16 Another reason why an employer ends up in
17 the residual market is the nature of their business.
18 The more hazardous the business, the more likely they
19 will find themselves in the residual market. Okay.

20 And then the last reason an employer finds
21 themselves in the residual market is really their own
22 performance, just a poor record of safety and loss
23 control. So for those three reasons.

24 As you can see, the vast majority of the
25 employers in the residual market right now, if you look

1 at 2010, is 473 employers with premium sizes of less
2 than 2,500, and then another 150 between 2,500 and
3 5,000. So that drives the vast majority of the
4 employers in this market. Those are employers that
5 don't even qualify to be experienced rated. So yeah,
6 that's consistent with what we've seen in the rest of
7 the country, where about 80 to 85 percent of the market
8 is small employers.

9 This premium amount that you see there at
10 6.4 million, that was at the end of 2010. We will
11 probably double that this year in West Virginia, when
12 2011 is all said and done. In fact, we'll probably more
13 than double it.

14 And that's really a function -- You say, why
15 would that happen? That's really a function of
16 Brickstreet moving away from being the de facto carrier
17 of last resort and not renewing its book of business and
18 having other carriers come into the market and also
19 passing on these employers. We're expecting a rather
20 large influx of employers in the residual market from a
21 particular job occupation in West Virginia, which will
22 probably surprise no one, and in that you have
23 approximately 400 or so volunteer fire departments in
24 this state and we expect that virtually all of those
25 will come into the residual market.

1 A saving grace for them, obviously, was the
2 House Bill that set up the subsidy that will reimburse
3 them for their premium increase this year versus last
4 year. So there's some cover for them there, but they
5 will likely find themselves in the residual market
6 world. We're already seeing that now.

7 Okay. Take a look at 41, and you can see
8 the -- again, relatively small residual market at the
9 end of 2010 with 2 percent of the premium in the state.
10 Countrywide we see about 5 percent of the premium in a
11 given state ends up in the residual market. You're
12 probably heading that way, but again you're taking a
13 little slower road. But again, we see a significant
14 increase in 2011.

15 And then the last two I'll just cover very
16 quickly. We take a look at West Virginia's -- I'm
17 looking at 42, just a quick comparison of the class
18 codes, the types of employers that end up in the
19 residual market. And nationally, carpentry is number
20 one, trucking, and you can see both of those represented
21 here in West Virginia. So West Virginia, logging,
22 obviously a hazardous type of employment. And again we
23 said earlier that that's one of the reasons that an
24 employer can end up in the residual market because of
25 the nature of their business, so you're seeing that here

1 in West Virginia.

2 And if you take a look at 43, this is the
3 premium -- the previous chart was the number of
4 employers from the standpoint of the number of policies
5 -- but the premium here in West Virginia, almost
6 10 percent, is trucking. Saw mills you can see is
7 6.1 percent, and saw mill operations very hazardous, and
8 so that's not surprising at all.

9 So that's it, unless there's any questions.
10 I don't know how I did on time, but I didn't get
11 admonished again for speaking too fast or too slow, so I
12 think I did okay.

13 CHAIRMAN DEAN: Mr. Dissen, you have any
14 questions, sir?

15 MR. DISSEN: I do not, sir.

16 CHAIRMAN DEAN: Mr. Hartsog?

17 MR. HARTSOG: Yeah, a couple.

18 MR. KOKULAK: Now this is on his time,
19 right?

20 MR. HARTSOG: And I'll speak slowly, and I
21 have been getting admonished by some in the audience for
22 not speaking loud enough so that I could be heard, so
23 maybe I'll try to do better.

24 There's a disconnect for me between claim
25 frequency that you talked about on Pages 18 to 20 were

1 much worse than other states in the region. And then
2 you go to Page 26 and you look at medical claims
3 severity and we're much better than other states in the
4 region.

5 MR. KOKULAK: Yeah, I said that. Not only
6 are you better from a medical severity standpoint,
7 you're better from an indemnity severity standpoint. So
8 your claim frequency is higher. What we are seeing is a
9 lot of relatively small claims here. So your frequency
10 is higher, your incidences are higher, but I don't know
11 if people are getting back to work quicker, whatever it
12 is --

13 MR. HARTSOG: How do we make sense of it?

14 MR. KOKULAK: Well, you make sense of it
15 simply by this -- maybe I can answer before you ask it,
16 if I can. You make sense of it like this: The reason
17 the average claim severity is as low as it is, is
18 because most of the claims, even though you have a
19 higher number of claims, the claim severity is not as
20 high, so that drives down the average cost when you do
21 the math of it. That drives down the average cost.

22 Believe me, we looked at this and that came
23 up at this meeting earlier in September, somebody asked
24 from the audience, and that is our actuary's response.
25 I mean, there's only so much digging into the data that

1 we can do. We -- you know, we get the data and the way
2 we look at it, the facts are the facts. That's what's
3 being reported to us. So systemically each of these
4 seven states that we showed you there are kind of used
5 as the barometer. The seven regional states have
6 different state systems. So that, in a way, doesn't
7 surprise us. The fact that you have claim frequency
8 that's higher than the other states, that your severity
9 is lower because of the fact that you have higher claim
10 frequency, the claims themselves don't develop as much.
11 And that's why the average claim here is lower.

12 MR. HARTSOG: I understand everything you
13 just said. I just, you know, I'm just having trouble
14 getting from what we have a lot more fewer claims, a lot
15 more smaller claims, versus fewer claims but that end up
16 being bigger developed claims with regard to costs on
17 down the line there. And I'm just trying to make some
18 sense out of whether the barriers to medical are
19 different here than in other states, or if we have a
20 lower barrier with regard to getting temporary total
21 disability benefits here, and does that relate to
22 unemployment, plant closings, those kind of things that
23 you were talking about that lead to not much medical,
24 but on the term more replacement wages that you pay out
25 in turn for people filing for comp in order to prolong

1 the unemployment?

2 MR. KOKULAK: You know, it could be all of
3 that and it could be other things. Again, we talked
4 about the seven states having different systems.
5 There's different waiting periods that could impact
6 that. One of the things I can do, if you'd like, I can
7 go back -- I'll just offer this, because I live in
8 Virginia, I don't work in the other states, but I can
9 probably go back and have our folks work up some
10 information with respect to some of the significant
11 system structures or methodologies in those states,
12 maybe put it on a kind of a comparison chart, and
13 perhaps that in itself will provide the evidence that
14 will show you. I think that's -- you want to know a
15 little bit deeper than just the results, is what it
16 sounds like.

17 MR. HARTSOG: Well, I was just trying to --
18 how is our system -- and is it system driven or is it
19 job driven?

20 MR. KOKULAK: It's both. It's a mix of
21 industries in the state.

22 MR. HARTSOG: I'm sure it is. And I'm sure
23 both of them have components that -- on each side of it.
24 But when I look at are there significant structural
25 differences between West Virginia and other states,

1 which I know that there are, and kind of whether those
2 might lend to fewer medical but more indemnity claims --

3 MR. KOKULAK: Okay.

4 MR. HARTSOG: -- or is it a matter of, you
5 know -- the couple of charts there I thought you had on
6 mining were interesting with regard to percent of
7 employment and percent of that, but I think that gets a
8 lot back to having driven off most of our other heavy
9 industrial base in West Virginia to other places, and
10 that the coal reserves can't really go anywhere else,
11 that that's kind of the heavy industry that's left, that
12 and timbering, is the reason that I think that that's
13 much more slanted in that direction. That's just an
14 opinion.

15 So I think it would be interesting to kind
16 of see what that is and see if there's something there
17 that we should be looking at or addressing with regard
18 to why those volumes are so much different given the
19 other states.

20 MR. KOKULAK: Right. And again, I'm making
21 the offer to do that. I can go back, have our folks who
22 work in those other states come up with those key
23 components. It is industry mix, it is everything you
24 said. Some states have medical fee schedules, others
25 don't, that contributes to it. I can give you an array

1 of key system components.

2 One of the things we have to be very careful
3 of at NCCI is not to give the appearance of being a
4 proponent of a certain element in some state's law or
5 system. Give you an example: Virginia does not have a
6 fee schedule for Workers' Comp. And I get asked -- I
7 got asked at our -- this meeting that we did here on
8 September 7th, I did the same meeting but customized for
9 Virginia. I got asked at that meeting, "Are you folks
10 in favor of Virginia having a fee schedule?" And our
11 answer has to be no, because that's not our role. We
12 can tell you what states have fee schedules and which
13 ones don't. We can show you the results in those
14 states, but somebody else has to drive legislation, we
15 do not -- that's not our role.

16 So what I can do is what I offered to do a
17 few minutes ago, is to go back and try to put something
18 together that compares the systemic issues in those
19 states to West Virginia, and maybe it will jump off the
20 page at you.

21 MR. HARTSOG: Thank you.

22 MR. KOKULAK: Is that fair enough?

23 CHAIRMAN DEAN: Mr. Marshall, you have any
24 questions?

25 MR. MARSHALL: No, Mr. Chairman.

1 MR. DISSEN: Mr. Chairman, I would like to
2 ask one. You mentioned earlier about the obesity
3 findings and Workers' Comp. If you're going to do that,
4 it would be a different section of it, but I'd like to
5 see the results of that.

6 MR. KOKULAK: Again, depending on your
7 agenda, I can come back --

8 MR. KENNY: Is it on your web site?

9 MR. KOKULAK: It is on the web site, you can
10 download it, but you don't get me then.

11 MR. KENNY: I only mention that because
12 actually this full report is on your web site.

13 MR. KOKULAK: Yes, I should mention that. I
14 am sorry. If you're so inclined, what I gave you here,
15 this kind of Cliff notes version of our meeting in early
16 September, if you go to NCCI.com and go to events, click
17 on state advisory forms, and then click on West
18 Virginia, and you can download the whole thing. And you
19 can go to recert section and download the obesity study
20 and everything else.

21 CHAIRMAN DEAN: Very good. Thank you.
22 We'll move on to OIC comments on stay process. Mary
23 Jane, would you like to do that?

24 MS. PICKENS: Sure. And this is really just
25 a wrap-up, I think, of a few meetings worth of input on

1 the stay process, starting a few meetings ago with some
2 comments from the claimant's side about some concerns
3 about the process.

4 The Industrial Council requested that the
5 Board of Review report back with some statistics and
6 some process explanations of how they addressed the
7 stays, and Judge Gray came a couple meetings ago and did
8 that. Ms. Howard was back at the last meeting to talk
9 in quite some detail about a specific claim, and to
10 continue I think to express some concerns, and she
11 provided a notebook to the members and to me. And I had
12 that notebook, so I shared it with the Board of Review
13 as well. Again you just want to make sure everybody has
14 an opportunity for appropriate feedback.

15 So I think it was at the last meeting, I
16 think, the council wanted the OIC to come with some
17 final thoughts or recommendations or whatever. So
18 that's the purpose of this.

19 Obviously we're not familiar with the
20 specific claim that Ms. Howard discussed, and it would
21 be inappropriate for us to even discuss the specifics of
22 the claim. The standards, as I understood the
23 information that was in Ms. Howard's notebook that she
24 was, I think, suggesting maybe be put in a rule are what
25 honestly I understand the Board of Review is essentially

1 using today. You know, they're looking at the
2 likelihood of success on the merits. They're looking at
3 the irreparable harm to the movant in the absence of a
4 stay. Any harm to the employer in the presence of a
5 stay. And the public interest. So I think, you know,
6 those are some pretty general standards I think the
7 Board of Review is already using.

8 And I guess our thought is that in any
9 system there may be the occasional unfortunate outcome,
10 but we don't think that those types of unusual
11 situations ought to drive the whole thing, and we
12 haven't really heard any compelling reason in our minds
13 to come forward with any rules or proposals or formal
14 action. I think it's something that obviously we need
15 to continue to look at very carefully and to follow
16 closely. And you know, I think the fact that Ms. Howard
17 can come here and share all the information that she has
18 indicates an opportunity and a willingness for this
19 council to listen to anything anybody wants to share.
20 And all of that is very appropriate.

21 I did want to point out that in the claim
22 that she spoke of, there -- she also did file a
23 complaint with our consumer services division that
24 related to the timely implementation of the Board of
25 Review Order once it issued its decision, because I

1 believe it ended up affirming the Office of Judges'
2 decision. I think in that case -- normally there's a
3 30-day period, correct, to implement a Board of Review
4 Order. The 30 days, I believe, had been exceeded in
5 that case.

6 MR. NUCKLES: Yes, in that particular case.

7 MS. PICKENS: But the complaint caused us to
8 look at that issue and to think about that issue, and we
9 talked to the Board of Review about whether they could
10 order their Order to be implemented sooner than 30 days,
11 because you know, the thinking being that were it not
12 for the stay, the claimant would have been entitled to
13 start receiving those benefits sooner. And in response
14 to that conversation the Board of Review I believe in
15 that case, and I assume in cases since then, is saying
16 that the Order should be implemented within 15 days of
17 the date of the Order, which seems very reasonable to
18 us. You know, if a claimant has had benefits stayed
19 because of an appeal, once that decision is decided,
20 once that issue is decided by the Board of Review, you
21 know, adding yet another 30 days on implementing that
22 Order doesn't seem necessary. So they, to my
23 understanding, are using a 15-day period to implement
24 those Orders where there's been a stay and they end up
25 agreeing with the Office of Judges.

1 And I just throw that out there, you know,
2 to show that this does work. You know, the complaint
3 caused us to look at that issue and recognized that
4 maybe something could be done that was a little bit
5 better, and we talked to the Board of Review and they
6 were very receptive to doing something a little bit
7 different. So, you know, based on the Board of Review's
8 and Judge Gray's presentation and what we we've heard so
9 far, we agree that it's an issue that needs to be
10 continually followed, but at this point the Insurance
11 Commissioner's Office doesn't anticipate coming forward
12 to the Industrial Council with any specific rules to
13 govern that process, because we haven't seen, for the
14 majority of claims, that it's not working as it is
15 intended.

16 CHAIRMAN DEAN: Very good. Mr. Dissen, you
17 have any questions or comments for Mary Jane?

18 MR. DISSEN: Based on the General Counsel's
19 review, I'm satisfied.

20 CHAIRMAN DEAN: Mr. Hartsog?

21 MR. HARTSOG: No.

22 CHAIRMAN DEAN: Mr. Marshall?

23 MR. MARSHALL: No, Mr. Chairman.

24 CHAIRMAN DEAN: Thank you, ma'am. Move on
25 to general public comment. Does anybody from the

1 general public have a comment they'd like to make today?

2 Seeing none, we'll move on to old business.

3 Anybody from Industrial Council have anything they'd
4 like to bring up under old business. Mr. Dissen?

5 MR. DISSEN: No, sir.

6 CHAIRMAN DEAN: Mr. Hartsog?

7 MR. HARTSOG: Two questions. Mr. Pauley
8 left the last meeting, said he would get back with us
9 with regard to how they do audits and whether or not
10 they're doing combining audits of entities when they go
11 out and look for compliance in that. Is there a
12 response to that or an answer to that question?

13 MS. PICKENS: And I did read through the
14 minutes to make sure we weren't missing any follow-up,
15 so obviously I missed it. So can you explain to me
16 again exactly what you thought he was going to come back
17 with?

18 MR. HARTSOG: Yeah. He had done a
19 presentation with regard to --

20 MS. PICKENS: Right.

21 MR. HARTSOG: -- the audits the OIC does, or
22 his department does, of self-insureds and private
23 carriers and kind of how they went about doing that.
24 And as part of that I'd asked two or three questions
25 with regard to, you know, how they select and do their

1 audits. And also, if they combine -- say one company
2 has six different entities, and they're all self-insured
3 and all use the same TPA, and I believe my question was
4 do you schedule and do six different audits, or do you
5 do one? And he, I don't think, knew the answer. He
6 guessed that they did one, but wasn't sure.

7 And then there was a couple more questions I
8 had with regard to their auditing and how they did it
9 and how he selected auditors, et cetera, that I don't --
10 but I think that other one was the biggest one.

11 MS. PICKENS: You know, I remember that
12 issue coming up when he was doing his presentation. I
13 think generally our goal is to ease the burden on
14 companies and us to the extent that we can, and if
15 combining makes some sense and it makes it easier for
16 everybody, I'm sure we would be willing to consider
17 that.

18 I think he probably didn't know the answer
19 because it hasn't come up yet, or at least we haven't
20 noticed that as an issue, or maybe we just haven't
21 considered it. But that's -- we can report back at the
22 next meeting. And I'll review the minutes again and
23 make sure that we didn't overlook something that we
24 should have come back on this time.

25 MR. HARTSOG: To my knowledge it was just a

1 few questions that was kind of hanging out there.

2 MS. PICKENS: Okay.

3 MR. HARTSOG: The second thing was, was on
4 our discussion and when we were in executive session
5 with regard to release of surety, and I believe that
6 council was of the opinion that the process we were
7 following was good, and that he -- but you all wanted to
8 look at that and make sure that we were okay with what
9 was being done, and just as a follow-up going to make
10 sure that was good.

11 MS. PICKENS: Can I check with Ryan, because
12 he was pulled away from this meeting on another matter
13 that couldn't be avoided, so he's not here to -- and he
14 would be the better one to answer that, because I think
15 he was the one that was going to do the follow-up.

16 MR. HARTSOG: That would be great.

17 CHAIRMAN DEAN: Anything else, Mr. Hartsog?

18 MR. HARTSOG: No.

19 CHAIRMAN DEAN: Mr. Marshall, you have
20 anything?

21 MR. MARSHALL: No, Mr. Chairman.

22 CHAIRMAN DEAN: Move on to new business.

23 Anybody from the Industrial Council have anything under
24 new business? Mr. Dissen?

25 MR. DISSEN: No.

1 CHAIRMAN DEAN: Mr. Hartsog?

2 MR. HARTSOG: No.

3 CHAIRMAN DEAN: Mr. Marshall?

4 MR. MARSHALL: No.

5 CHAIRMAN DEAN: Very good. The next meeting
6 will be Thursday, October 27, 2011, at 1:00 p.m. I'd
7 like to change that to 3:00, if at all possible that
8 day.

9 MR. DISSEN: Fine with me.

10 MR. HARTSOG: Fine.

11 MR. MARSHALL: Fine with me.

12 CHAIRMAN DEAN: Okay with you, Mary Jane?

13 MS. PICKENS: I'm sure it is, because we
14 usually on our own calendars internally block off the
15 whole afternoon for Industrial Council.

16 CHAIRMAN DEAN: Okay. So the next meeting
17 will be Thursday, October 27th at 3:00 p.m., rather than
18 1:00. And seeing nothing else, I will take a motion for
19 adjournment.

20 MR. DISSEN: So move.

21 CHAIRMAN DEAN: Motion for adjournment.

22 MR. MARSHALL: Second.

23 CHAIRMAN DEAN: We are adjourned.

24 (WHEREUPON the meeting was adjourned at
25 2:13 p.m.)

REPORTER'S CERTIFICATE

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA, to-wit:

I, Judith A. Greene, Registered Professional
Reporter, do hereby certify that the foregoing is to the
best of my ability a correct verbatim record of the
proceedings had at the time and place set forth herein.

Given under my hand this 6th day of October, 2011.

Judith A. Greene

Judith A. Greene, RPR
Notary Public

My commission expires July 2, 2018.

